

## **MINUTES**

### **MONTANA SENATE 57th LEGISLATURE - REGULAR SESSION COMMITTEE ON BUSINESS AND LABOR**

**Call to Order:** By **CHAIRMAN MIKE TAYLOR**, on March 13, 2001 at 8:00 A.M., in Room 422 Capitol.

#### **ROLL CALL**

**Members Present:**

Sen. Mike Taylor, Chairman (R)  
Sen. Mike Sprague, Vice Chairman (R)  
Sen. Vicki Cocchiarella (D)  
Sen. Sam Kitzenberg (R)  
Sen. Dale Mahlum (R)  
Sen. Glenn Roush (D)  
Sen. Don Ryan (D)

**Members Excused:** Sen. Dale Berry (R)  
Sen. Edward Butcher (R)

**Members Absent:** None.

**Staff Present:** Bart Campbell, Legislative Branch  
Kyanne Kelly, Committee Secretary

**Please Note:** These are summary minutes. Testimony and discussion are paraphrased and condensed.

**Committee Business Summary:**

Hearing(s) & Date(s) Posted: HB 515, 3/10/2001; HB 519,  
3/10/2001; HB 448, 3/10/2001  
Executive Action: HB 515

HEARING ON HB 515

Sponsor: REPRESENTATIVE LARRY LEHMAN, HD 87, POWER

Proponents: Dean Mack, East Valley Fire Company  
Melanie Symons, Public Employees Retirement Board  
Jim Dusenberry, West Helena Fire Department  
John Semple, Montana Fire Alliance

Opponents: None

Opening Statement by Sponsor:

*{Tape : 1; Side : A; Approx. Time Counter : 1.3}*

REPRESENTATIVE LARRY LEHMAN, HD 87, POWER, said the heart of this bill is that in the event of a declared national, state or local emergency a retired volunteer firefighter may return to active service for the duration of the declared emergency without loss of previously earned benefits.

Proponents' Testimony:

Dean Mack, East Valley Fire Company, said retired firefighters should not have pension loss or reduction when they volunteer to help fight fires during an emergency.

Melanie Symons, Public Employees Retirement Board, said they think this is a good idea.

Jim Dusenberry, West Helena Fire Department, said retirees can be a real asset on the fires and they shouldn't be punished for volunteering by losing their pension benefits. He handed in testimony from Bob Drake. **EXHIBIT (bus57a01)**

John Semple, Montana Fire Alliance, said he supports this bill.

Opponents' Testimony: None

Questions from Committee Members and Responses: None

Closing by Sponsor:

*{Tape : 1; Side : A; Approx. Time Counter : 12.2}*

**REPRESENTATIVE LARRY LEHMAN, HD 87, POWER,** said the key factor here is that this would be enacted only under emergency conditions, and there is no fiscal note attached to this.

**EXECUTIVE ACTION ON HB 515**

**Motion/Vote:** SEN. TAYLOR moved that HB 515 BE CONCURRED IN.  
Motion carried unanimously.

**HEARING ON HB 519**

**Sponsor:** REPRESENTATIVE GARY FORRESTER, HD 16, BILLINGS

**Proponents:** Ronda Carpenter, Coin Machine Association  
Gene Huntington, Gambling Control Division  
Rich Miller, Gaming Industry Association

**Opponents:** None

**Opening Statement by Sponsor:**

*{Tape : 1; Side : A; Approx. Time Counter : 15.3}*

**REPRESENTATIVE GARY FORRESTER, HD 16, BILLINGS,** said that in the 1999 session this was the dial up bill. It allowed the gaming industry to have a tax credit which has not been able to be used because the dial up system was not up and running. He stated that this bill would extend the tax credit for one year.

**Proponents' Testimony:**

**Ronda Carpenter, Coin Machine Association,** said the expectation was that the first quarter of year 2000 all the machines would be hooked up, but that didn't happen. Through no fault of the Department or the vendors, the deadline for the tax credit is being reached without having the machines hooked up to the automatic report system, and what this bill does is move the deadline ahead one year.

**Gene Huntington, Gambling Control Division,** said they had hoped to have delivery on the system much earlier. He stated that this tax credit was for those machines that need to be retrofitted. This extension will not change things all that much, it will just do what the bill from 1999 intended, only taking into consideration the delay.

**Rich Miller, Gaming Industry Association,** said he supports this bill.

**Opponents' Testimony:** None

**Questions from Committee Members and Responses:**

**SENATOR MIKE SPRAGUE** asked about the problem of implementation.

**Gene Huntington,** said the original goal was to have machines that were already fitted with the equipment, but the system was not developed in time so there is a need to retrofit the old machines.

**CHAIRMAN MIKE TAYLOR** asked how much money has been spent putting this system into place.

**Gene Huntington** said to date it was \$930,000.

**CHAIRMAN TAYLOR** asked about the projected cost.

**Gene Huntington** said the amount appropriated was 1.5 million.

**Chairman Taylor** asked if there would be extra money generated from this system.

**Rich Miller** said the savings would be made in the efficiency of the system.

**Closing by Sponsor:**

*{Tape : 1; Side : B; Approx. Time Counter : 0.5}*

**REPRESENTATIVE GARY FORRESTER, HD 16, BILLINGS,** said the question here is a matter of fairness to the machine operators who signed up for this system.

**HEARING ON HB 448**

**Sponsor:** **REPRESENTATIVE GARY FORRESTER, HD 16, BILLINGS**

**Proponents:**      **Carl Schweitzer, Subcontractors Association of MT**  
                         **Zack Pallister, Plumbing and Heating Contractor**  
                         **Lynn Perkins, Fire Suppression Systems**  
                         **Derek Brown, General Contractor**  
                         **Chuck Thompson, Northern Fire and Communication**  
                         **Jim Wolfe, Polar Electric**

**Dennis Iverson, National Electrical Contractors  
John Bukovatz, 4-G Plumbing and Heating**

**Opponents:** Tom Eberzy, Montana Contractor's Association  
Ed Maronick, Montana Contractors Association  
Robert Throssell, Montana Technical Council  
Greg Oswood, Morgan and Oswood Construction  
John Fitzpatrick, Touch America  
Russ Cravens, Qwest Communications  
Rose Hughes, Consulting Engineers Council

**Informational Witness:** Geoff Feiss, MT Telecommunications Assoc

**Opening Statement by Sponsor:**

*{Tape : 1; Side : B; Approx. Time Counter : 1.5}*

**REPRESENTATIVE GARY FORRESTER, HD 16, BILLINGS,** said this is a bill about fairness in construction and is an extension of the prompt payment bill passed last session. He stated that if this bill were passed it would mean that subcontractors have to be paid within 21 days after they submit their bill.

**Proponents' Testimony:**

**Carl Schweitzer, Subcontractors Association of Montana,** gave a hand-out which showed in detail his testimony. **EXHIBIT (bus57a02)**

**Zack Pallister, Plumbing and Heating Contractor,** told of experiences where he was not paid in a timely manner by contractors he worked for.

**Lynn Perkins, Fire Suppression Systems,** gave a handout to show an example of timely pay being written into the contract.  
**EXHIBIT (bus57a03)**

**Derek Brown, General Contractor,** said his biggest problem is getting paid on time.

**Chuck Thompson, Northern Fire and Communication,** said he supports this bill.

**Jim Wolfe, Polar Electric,** said he supports this bill.

**Dennis Iverson, National Electrical Contractors**, said he supports the bill. He said if you do the work on time you should get paid on time.

**John Bukovatz, 4-G Plumbing and Heating**, said he supports this bill.

**Opponents' Testimony:**

**Tom Eberzy, Montana Contractor's Association**, said the suspension of payment provision should not be in the bill, he said he strongly opposed the bill if the amendment was adopted.

**Ed Maronick, Montana Contractors Association**, said the legislation is not needed because what this bill is asking for is already available to by contract.

**Robert Throssell, Montana Technical Council**, said the state should not dictate contracts in private industry.

**Greg Oswood, Morgan and Oswood Construction**, said this should not be legislated, it should be negotiated in contract.

**John Fitzpatrick, Touch America**, said usually if there is a problem with payment it is because there is a problem with the work not getting done, or not being done right.

**Russ Cravens, Qwest Communications**, said he thinks contracts are a more appropriate way of addressing this issue.

**Rose Hughes, Consulting Engineers Council**, said she thinks this will cause more problems than it will solve.

**Informational Witness:**

**Geoff Feiss, Montana Telecommunications Association**, made himself available for questions.

**Questions from Committee Members and Responses:**

**SENATOR RYAN** asked if the law puts any criteria on who a contractor can hire.

**Greg Oswood** said no.

**SENATOR ROUSH** asked if there are problems with timely payment.

**Greg Oswood** said it depends on who you work with, but for him it is not usually a problem.

**SENATOR TAYLOR** asked why someone would get in a situation where you are behind \$750,000, wasn't there a contract for payment?

**Zack Pallister** said yes they did have a contract, but the contractor didn't pay anyway and he had no recourse. He stated that contracts are always in favor of the one who holds the purse strings.

**SENATOR TAYLOR** asked how this bill would save lawsuits if it didn't pass.

**Robert Throssell** said this bill would simply add more language to base a lawsuit on.

**CHAIRMAN TAYLOR** asked **Ed Maronick** if he would support this bill without the amendment. He said yes.

**SENATOR SPRAGUE** said there is a need to move toward solution, he asked if the subcontractors were willing to work with the contractors after the session to come up with a workable bill for both parties.

**Carl Schweitzer** said yes. He also passed out suggested amendments. **EXHIBIT (bus57a04)**

**Closing by Sponsor:**

***{Tape : 2; Side : B; Approx. Time Counter : 24.2}***

**REPRESENTATIVE GARY FORRESTER, HD 16, BILLINGS,** said residential construction is not in this bill. He further stated that putting a lien on property doesn't work, it takes a long time and then frequently the contractor still doesn't get his money. He said this bill is not about contractors getting paid if they don't do the work properly, this is about timely payment for work that has been completed as agreed upon.

**ADJOURNMENT**

Adjournment: 10:10 A.M.

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SEN. MIKE TAYLOR, Chairman

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KYANNE KELLY, Secretary

MT/KK

**EXHIBIT** (bus57aad)